

Republic of the Philippines
METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM
Bids and Awards Committee

BAC RESOLUTION NO. 2018- 270
APPROVAL OF THE REVIEW BY LEGAL DEPARTMENT ON THE PREVENTIVE
MAINTENANCE OF THE 350 TR WATER COOLED CHILLER (KIRLOSKAR) AT
MWSS ADMINISTRATION BUILDING

WHEREAS, a Notice to Proceed was issued by MWSS to Aircode Corporation on June 2016 for the replacement of 350TR Water Cooled Chiller (Kirloskar) installed at the MWSS Administration Building in the amount of P 10,892,733.60;

WHEREAS, a Memorandum dated 16 April 2018 from Acting Manager for Support and Services Department was addressed to BAC Chairperson in connection with the Preventive Maintenance of the Chiller;

WHEREAS, on 23 April 2018 BAC meeting, the BAC discussed the possibility of entering into Direct Contracting¹ with Aircode Corporation for the preventive maintenance of the chiller;

WHEREAS, during the same meeting, the BAC decided to forward the matter to the Legal Department for review/opinion;

WHEREAS, in a Memorandum dated 19 June 2018, the Legal Department issued its review/opinion² on the matter stating that Aircode Corporation must first be declared to be the exclusive dealer or manufacturer of the Kirloskar Chiller in order for MWSS to directly contract with it;

WHEREAS, after revisiting the documents submitted by the Aircode Corporation, it was noted by the Legal Department that on 2 January 2016 Distributorship Certificate issued by Kirloskar Chillers Private Limited, it declared that Aircode Corporation is its "sole and exclusive" distributor for Kirloskar Chillers products in and for the Philippines;

¹ Direct Contracting or single source procurement is a method of procurement of Goods that does not require elaborate Bidding Documents. The supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale. The offer may be accepted immediately or after some negotiations. Direct contracting may be resorted to by concerned Procuring Entities under any of the following conditions: a) Procurement of Goods of proprietary nature which can be obtained only from the proprietary source, i.e. when patents, trade secrets, and copyrights prohibit others from manufacturing the same item; b) When the procurement of critical components from a specific supplier is a condition precedent to hold a contractor to guarantee its project performance, in accordance with the provisions of its contract; or c) Those sold by an exclusive dealer or manufacturer which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the GoP.

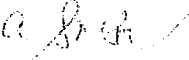
² ANNEX "B"

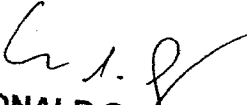
WHEREAS, on 2 July 2018 BAC meeting, the BAC discussed the review/opinion issued by the Legal Department;


NOW, THEREFORE, the BAC after due deliberation, hereby **RESOLVES**, as it is hereby **RESOLVED** to adopt the review/opinion of the Legal Department dated 19 June 2018 stating that the MWSS may enter into an Agreement with Aircode Corporation through Direct Contracting, subject to provision of Rule XVI, Section 50 of Republic Act 9184 and its Revised Implementing Rules and Regulation.

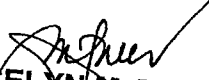
APPROVED this 2nd day of July 2018.

Bids and Awards Committee


ANABELLA S. ALTUNA
Member


RONALD S. ABRIGO
Member


LEONOR C. CLEOFAS
Chairman


JOCELYN M. TOLEDO
Member


RAMON R. FABUL
Member